

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

JAMES MORTEZ GARDNER

PETITIONER

V.

NO. 3:24-CV-00028-GHD-DAS

COMMISSIONER BURL CAIN

RESPONDENTS

ORDER DISMISSING CASE WITHOUT PREJUDICE

On April 28, 2023, Petitioner James MorteZ Gardner filed the instant federal habeas corpus action pursuant to 28 U.S.C. § 2254 in the Federal District Court for the Southern District of Mississippi. *See* Doc. # 1. In initiating this action, Gardner failed to file an application to proceed *in forma pauperis* (“IFP”) nor did he pay the filing fee. Consequently, on May 1, 2023, the Court entered an order directing him to either pay the filing fee or submit a complete IFP application within thirty (30) days. *See* Doc. # 3. Gardner failed to comply with the Court’s directive and after two show cause orders, *see* Doc. #s 4, 6, on August 18, 2023, the Court dismissed the case without prejudice for failure to prosecute or obey an order of the Court. *See* Doc. #s 8, 9.

Two months later, on October 23, 2023, Gardner moved for reconsideration of the Court’s order dismissing the case, *see* Doc. # 11, which the Court granted on December 15, 2023. *See* Doc. # 12. Subsequently, on January 17, 2024, the Court directed Gardner to again either pay the filing fee or submit a complete IFP application within thirty days. *See* Doc. # 13. The Order warned Gardner that his failure to comply may result in the dismissal of this case. *See id.* Then, on January 31, 2024, the matter was transferred to this District. *See* Doc. # 14. To date, Gardner has failed to pay the filing fee for this action, nor has he submitted a complete IFP application, and the deadline for doing so has passed. Accordingly, the instant case is hereby **DISMISSED**

without prejudice for Gardner's failure to prosecute and failure to comply with an order of the Court.

SO ORDERED, this the 20th day of February, 2024.

A handwritten signature in black ink, appearing to read "G. H. Janson", is written above a horizontal line.

**UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF MISSISSIPPI**